

# Mistakes That Can Cost You Your Guaranty

**Good Morning!**

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**SBA.GOV**  
The U.S. Small Business Administration

SBA West Virginia District Office

Presented by:  
Ethan W. Smith, Esq.

# Mistakes That Can Cost You Your Guaranty

SBA West Virginia District Office

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**SBA**.GOV  
The U.S. Small Business Administration



# Instructor

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## **Ethan W. Smith**

Partner, Starfield & Smith, PC

Ethan W. Smith's areas of practice focus on government guaranteed lending, commercial lending, banking, real estate and commercial law. Ethan has closed thousands of government guaranteed loans nationwide.

*Starfield & Smith, P.C. is a boutique law firm specializing in all aspects of SBA-guaranteed lending, from origination through liquidation, for lenders nationwide. Starfield & Smith closes between \$130 and \$150 million of SBA guaranteed loans for its lender clients every quarter. For more information about Starfield & Smith, visit [www.starfieldsmith.com](http://www.starfieldsmith.com).*

# Closing Issues:

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- ❑ Eligibility
- ❑ Improper PLP processing
- ❑ Program Integrity
- ❑ Verification of Financials
- ❑ Environmental
- ❑ Use of Proceeds
- ❑ Debt Refinance
- ❑ Collateral
- ❑ Insurance
- ❑ 912 Issues
- ❑ Equity Documentation



# Top Reasons for Repairs and Denials

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## ❑ Lien and Collateral Issues that Result in Missed Recoveries (Generally a Repair)

- Failure to obtain required lien position
- Failure to properly perfect security interest
- Failure to fully collateralize loan at origination when additional collateral was available



# Top Reasons for Repairs and Denials

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## ❑ Unauthorized Use of Proceeds

- Proceeds disbursed for purpose(s) inconsistent with the loan authorization or subsequent modifications without a business justification. (Could be a Denial if early default and improper use of proceeds caused the failure of the business)
- Same lender Non-SBA loan paid with PLP loan proceeds (preference)



# Top Reasons for Repairs and Denials

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- ❑ **Early Defaults (Denial if determined to be reason for business failure)**
  - Missing or unsupported verification of required equity injection (includes verification of source in some cases)
  - Missing or unsupported documentation of verification of borrower financial information with IRS when financial information was relied on in lender's credit analysis





# Top Reasons for Repairs and Denials

## ❑ SBA Loan Eligibility (Denial)

- Ineligible franchise
- Ineligible loan purpose
- Ineligible loan recipient (loan to an associate of lender)
- Underwriting





# Questions

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Thanks!

Ethan W. Smith, Esq.  
[esmith@starfieldsmith.com](mailto:esmith@starfieldsmith.com)

**STARFIELD  
SMITH, PC**

ATTORNEYS AT LAW

1300 Virginia Drive  
Suite 325  
Ft. Washington, PA 19034  
P: 215-542-7070  
F: 215-534-9023

2600 Maitland Center  
Parkway, Suite 330  
Maitland, FL 32751  
P: (407) 667-8811  
F: (407) 667-0020

[www.starfieldsmith.com](http://www.starfieldsmith.com)

# WV Lender Relations Contacts

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For more information on SBA's programs and services contact:

Rick Haney  
304-623-7449

[Richard.haney@sba.gov](mailto:Richard.haney@sba.gov)

Leo Lopez  
304-347-5220

[Leo.lopez@sba.gov](mailto:Leo.lopez@sba.gov)

Or visit our office web site at:  
[www.sba.gov/wv](http://www.sba.gov/wv)